REMARKS

Claims 1-14 are in the application. Claims 1, 4, and 5 stand rejected under 35 U.S.C. 102(b) as being anticipated by Schröder et al. (U.S. Patent 6,273,492). The Examiner states that Schröder teaches a system for measuring the amount of force required to operate a convertible top for an automotive vehicle, comprising a pull down actuator (4), a position transducer (5, 6, 13), a force transducer (15), and a controller (7). The Examiner states further that Schröder's pull down actuator (4) may be mounted on a removable anchor structure (3) (Schröder Figure 1). Applicants respectfully traverse this rejection and request that Claims 1, 4 and 5 be reconsidered in view of these remarks and passed to issue over the Examiner's rejection.

Applicants respectfully submit that Schröder cannot comprise a colorable basis for the rejection of Applicants' claims under either 35 U.S.C. 102(b) or 35 U.S.C. 103(a). Schröder does not teach the use of a pull down actuator; Schröder has a linked top frame and the fact is that Schröder linkage 4 does not serve to pull down anything because Schröder's linkage 4 is not powered in any manner. Rather, linkage 4 of Schröder is merely pushed by the remaining linkage and hydraulic cylinder 2.

As used in Applicants' specification, drawings and claims, the term "pull down actuator" means a device for cycling a convertible top so as to measure the operating force required to move the top. Herein lies a further problem with the Examiner's reading of Schröder. The Examiner asserts that Schröder's element 15 is a "force transducer." This reading is, however, incorrect, because Schröder's device 15 is a rotational speed detection means. Schröder is devoid of any teaching or suggestion that force of any kind is being measured. Rather, the problem being attacked by Schröder is uneven operating speed of a convertible top. So, Schröder records the motor speed at various points and modulates the speed accordingly so that the top does not operate in a jerky fashion. Schröder (column 1, lines 31-35) Thus, Schröder does not have a pull down actuator, nor does Schröder have a force transducer operatively associated with the pull down actuator for measuring the force exerted by the pull down actuator upon the top. Moreover, Schröder does not have a controller for recording measured travel and the force exerted by the pull down actuator. Thus, Claims 1, 4 and 5 are allowable over Schröder and should be passed to issue over the Examiner's rejection. Such action is earnestly solicited.

Claims 2, 3 and 6-14 stand rejected under U.S.C. 103(a) as being unpatentable over Schröder in view of Mentink. In making the rejection, the Examiner recites once again the incorrect and manifestly unsupportable reading of Schröder to the effect that Schröder measures the amount of force required to operate a convertible top. The Examiner admits that Schröder lacks a gripper and manual handhold. For these elements, the Examiner looks to Mentink. The Examiner states that Mentink at 8 indicates a gripper and manual handhold. The Examiner continues with the argument that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schröder to include the above limitations as taught by Mentink in order to effectively open and close and latch the convertible top.

Applicants respectfully traverse the rejection of Claims 2, 3 and 6-14 and request these claims be passed to issue over the Examiner's rejection.

As noted above, Schröder teaches nothing regarding measuring of force required to operate a convertible top. Moreover, Mentink at column 3, lines 60-67 discloses a hydraulically actuated latching member. The Examiner apparently is misreading the drawing of Mentink at Figure 2 and believes that a hydraulic cylinder 36 and a latch driven by the hydraulic cylinder are a "handle." This reading of Mentink is unsustainable and as a result, each of Claims 2, 3 and 6-14 should be passed to issue over the Examiner's rejection. Such action is earnestly solicited.

Regarding Claim 11, the Examiner asserts that Schröder teaches a system wherein a controller comprises a data storage facility/memory. Applicants' Claim 11 depends from Claim 9, which teaches the use of a pull down actuator for moving a convertible top from an open position to a closed position, and a flexible, inextensible member having a first end attached to a gripper for grasping a handhold mounted to a convertible top and a second end attached to the pull down actuator. Claim 9 also sets forth a position transducer and a characteristic transducer for measuring a convertible top operating parameter as the top is moved from one position to another. A controller is also recited. As noted above, Schröder does not disclose or teach a pull down actuator and certainly does not disclose or teach a flexible, inextensible member attached to a gripper for grasping a handhold mounted to a convertible top, and as a result, Claim 9 is allowable over combination of Schröder, Mentink, and therefore so is Claim 11 which depends

from Claim 9. As a result, Claim 11 should be passed to issue over the Examiner's rejection. Such action is earnestly solicited.

Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Schröder in view of Mentink and further in view of Hacker. The Examiner states that Schröder in view of Mentink teaches a characteristic transducer 15 operatively associated with a pull down actuator for measuring and operating parameter of a convertible top but lacks the teaching that the specific operating parameter is audible noise. For this, the Examiner turns to Hacker. However, the Examiner's reliance upon Hacker is misplaced because Hacker does not teach the recording of audible noise associated with the operation of a convertible top as is set forth in Claim 9 and 14, but rather, Hacker teaches the use of an audible signal to tell the vehicle's driver that the top is in its fully locked and fully opened position. The Examiner is thus in error in relying upon Hacker and Claim 14, too, should be passed to issue over the Examiner's rejection.

In sum, each of the claims in this case, i.e., Claims 1-14 should be passed to issue over the Examiner's rejection. Such action is earnestly solicited.

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Dated : 2/28, 2005

CERTIFICATE OF MAILING

I hereby certify that the enclosed Amendment is being faxed via (703) 872-9306 to Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28th day of FEBRUARY, 2005.

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